

CRB
530**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

Name RUTLEDGE, EUGENE D
 (Last) (First) (Initial)

Prisoner Number F-79385 HIGH DESERT STATE PRISON

Institutional Address P.O. Box 3050, SUSANVILLE, CA. 96127

FILED

APR 28 2008

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

EUGENE DARREL RUTLEDGE

(Enter the full name of plaintiff in this action.)

vs.

A. FELKER, WARDEN OF HIGHDESERT STATE PRISON, JERRY BROWNATTORNEY GENERAL OF THE STATE OFCALIFORNIA.

(Enter the full name of respondent(s) or jailor in this action)

CV

08

2193

Case No. _____
 (To be provided by the clerk of court)

PETITION FOR A WRIT
 OF HABEAS CORPUS

(PR)

E-filing

Read Comments Carefully Before Filling InWhen and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

08-2193 CRB

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

- (a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

ALAMEDA SUPERIOR COURTOAKLAND

Court

Location

- (b) Case number, if known 154409 ; 152773

- (c) Date and terms of sentence MAY 25, 2007 20 YEARS 4 MONTHS

- (d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No

Where?

Name of Institution: HIGH DESERT STATE PRISONAddress: P.O. Box 3030, Susanville, CA. 96127

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

9 COUNTS OF CALIFORNIA PENAL CODE SECTION 212.5(C) ROBBERY 2NDDEGREE; 1 COUNT CALIFORNIA PENAL CODE SECTION 212.5(C) ATTEMPTEDROBBERY 2ND DEGREE; 1 CALIFORNIA PENAL CODE SECTION 667(A) PRIOR FEDERAL CONVICTION.

3. Did you have any of the following?

Arraignment: Yes X No

Preliminary Hearing: Yes X No

Motion to Suppress: Yes No X

4. How did you plead?

Guilty Not Guilty X Nolo Contendere

Any other plea (specify) N/A

5. If you went to trial, what kind of trial did you have?

Jury X Judge alone Judge alone on a transcript

6. Did you testify at your trial? Yes No X

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes X No

(b) Preliminary hearing Yes X No

(c) Time of plea Yes X No

(d) Trial Yes X No

(e) Sentencing Yes X No

(f) Appeal Yes X No

(g) Other post-conviction proceeding Yes No X

8. Did you appeal your conviction? Yes X No

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes X No

Year: 2007 Result: PENDING

Supreme Court of California Yes No X

Year: Result:

Any other court Yes X No

Year: 06-08 Result: WRIT OF HABEAS CORPUS DENIED

(b) If you appealed, were the grounds the same as those that you are raising in this

petition? Yes No *X*

(c) Was there an opinion? Yes No *X*

(d) Did you seek permission to file a late appeal under Rule 31(a)?
Yes No *X*

If you did, give the name of the court and the result:

N/A

//

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes *X* No

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: CALIFORNIA COURT OF APPEALS, FIRST DISTRICT, DIVISION FIVE

Type of Proceeding: WRIT OF MANDATE / PROHIBITION (NO. A117294)

Grounds raised (Be brief but specific):

a. TRIAL COURT IN VIOLATION OF ~~CODE OF CIVIL PROCEDURE~~ *CODE OF CIVIL PROCEDURE*

SECTION 170.6 PEREMPTORY CHALLENGE TO RECUSE JUDGE

b. DENIAL OF MOTION TO SET ASIDE, DENIED IN ABUSE OF DISCRETION

c.

d. *//*

Result: PETITION DENIED Date of Result: 04/12/07

II. Name of Court: CALIFORNIA COURT OF APPEAL, FIRST DISTRICT, DIVISION FIVE

Type of Proceeding: WRIT OF HABEAS CORPUS (NO. A117062)

Grounds raised (Be brief but specific):

a. UNNECESSARY DELAY IN VIOLATION OF PENAL CODE SECTION 825

b. PRELIMINARY EXAMINATION WAS HELD IN VIOLATION OF PENAL CODE SECTION 859.6

c. _____

d. 11

Result: PETITION DENIED Date of Result: 03/23/07

III. Name of Court: CALIFORNIA COURT OF APPEALS, FIRST DISTRICT, DIVISION FIVE

Type of Proceeding: WRIT OF HABEAS CORPUS (NO. A118351)

Grounds raised (Be brief but specific):

a. MOTION TO REVOKE TRIAL JUDGE DENIED ERRONEOUSLY

b. APPOINTED COUNSEL INEFFECTIVE FOR FAILING TO LITIGATE OUE PROCESS VIOLATIONS AND STRESSY TRIAL VIOLATIONS THAT EXISTED

c. _____

d. 11

Result: PETITION DENIED Date of Result: 11/02/07

IV. Name of Court: CALIFORNIA SUPREME COURT

Type of Proceeding: WRIT OF HABEAS CORPUS (NO. ^{9152658;} ~~9159052~~ ⁹¹⁶⁰⁷⁰⁴)

Grounds raised (Be brief but specific):

a. ~~CALIFORNIA SUPREME COURT~~ (SEE ATTACHMENTS)

b. 11

c. 11

d. 11

Result: (SEE ATTACHMENT) Date of Result: _____

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes _____ No X

Name and location of court: N/A

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

- ATTACHMENT PAGE -

(a) RELIEF SOUGHT IN ANY PROCEEDING OTHER THAN AN
APPEAL: CASE NO. 8152658

IV. (CONTINUED)

GROUND'S RAISED

2. UNNECESSARY DELAY TO BRING PETITIONER TO A PROMPT PROBABLE
CAUSE DETERMINATION AND STATE CHARGE ARRAIGNMENT VIOLATED
DUE PROCESS UNDER STATE AND CONSTITUTION AND FEDERAL
CONSTITUTION. PETITIONER SOUGHT DISMISSAL OF CAUSE

h. PETITIONER'S PRELIMINARY EXAMINATION (NO. 517270) WAS HELD
IN VIOLATION OF STATE STATUTE 60 DAYS OF PETITIONER'S ARRAIGNMENT
ON CRIMINAL NO. 517270, THIS VIOLATES DUE PROCESS STATE CONSTITUTION
AND FEDERAL CONSTITUTION. PETITIONER SOUGHT DISMISSAL OF CAUSE

c. TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO MOVE TO SUPPRESS
ILLEGALLY OBTAINED EVIDENCE. COUNSEL FAILURE PREJUDICED PETITIONER
PETITIONER SOUGHT REVERSAL OF CONVICTION.

d. COUNSEL OF RECORD FROM CRIMINAL DOCKET NO. 517270, 152773;
525397, 154409 RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL
WHERE PETITIONER'S DUE PROCESS RIGHTS WERE VIOLATED AND
STATE'S CONSTITUTIONAL SPEEDY TRIAL WERE VIOLATED ALSO. PETITIONER
SOUGHT DISMISSAL OF CAUSE.

e. COUNSEL APPOINTED WAS INEFFECTIVE FOR CONSENTING WITH
PROSECUTION TO A STATUTORY DISMISSAL UNDER PENAL CODE SECTION
1387.2 WHERE PROSECUTION ABLE TO RE-FILE WHERE CONSTITUTIONAL
GROUND'S WERE AVAILABLE TO BAR PROSECUTION. PETITIONER SOUGHT
DISMISSAL OF CAUSE.

RESULT: PETITION DENIED

DATE OF RESULT: 09-12-07

PETITION FOR WRIT OF HABEAS CORPUS - 5(b) -

- ATTACHMENT PAGE -

(a) RELIEF SOUGHT IN ANY PROCEEDINGS OTHER THAN AN APPEAL:

V. NAME OF COURT: SUPREME COURT OF CALIFORNIA

TYPE OF PROCEEDING: WRIT OF HABEAS CORPUS NO. S158052

GROUND(S) RAISED:

a. TRIAL COURT ERRONEOUSLY DENIED PETITIONER'S MOTION

UNDER CODE OF CIVIL PROCEDURES SECTION 170.6 AS BEING UNTIMELY, PETITIONER DUE PROCESS RIGHTS VIOLATED. PETITIONER SOUGHT REVERSAL OF CONVICTION AND NULL AND VOID ALL RULINGS.

b. COURT APPOINTED COUNSEL RENDERED PETITIONER INEFFECTIVE ASSISTANCE OF COUNSEL, WHERE FROM CRIMINAL DOCKETS

NO. S17270; 152773; 525397; 154409 ALL COUNSEL HAS FAILED TO LITIGATE DUE PROCESS AND SPEEDY TRIAL VIOLATIONS THAT EXISTED IN THE CRIMINAL CASE AGAINST PETITIONER. PETITIONER SOUGHT DISMISSAL OF CASE.

RESULT: PETITION DENIED

DATE OF RESULT 03-26-08

VI. NAME OF COURT: SUPREME COURT OF CALIFORNIA

TYPE OF PROCEEDING: WRIT OF HABEAS CORPUS NO. S160704

GROUND(S) RAISED:

a. COUNSEL(S) OF RECORD RENDERED FEDERAL CONSTITUTIONALLY INEFFECTIVE FOR FAILING TO MOVE ON A SUPPRESSION MOTION ON ILLEGALLY OBTAINED EVIDENCE. COUNSEL FAILED TO CHALLENGE THE LEGALITY OF AN ILLEGAL ENTRY OF PETITIONER'S RESIDENCE BY OAKLAND POLICE AND DELIBERATELY CONCEALED IT FROM THE COURT CONSIDERING SEARCH WARRANT AFFIDAVIT. PETITIONER SOUGHT REVERSAL OF CONVICTION.

[CONTINUED NEXT PAGE]

- ATTACHMENT PAGE -

(2) RELIEF SOUGHT IN ANY PROCEEDING OTHER THAN AN APPEAL: (CONT.)

VI. GROUNDS RAISED (CONT.)

b. COURT APPOINTED COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL UNDER FEDERAL CONSTITUTION WHERE IN CRIMINAL DOCKETS NO(S) 517270; 152773; 525397; 154409 PETITIONER SUFFERED DUE PROCESS AND SPEEDY TRIAL RIGHTS VIOLATIONS OF STATE AND FEDERAL CONSTITUTIONS, PETITIONER SOUGHT DISMISSAL OF CAUSE AND REVERSAL OF CONVICTION.

c. COURT APPOINTED RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL UNDER FEDERAL CONSTITUTION WHERE IN CRIMINAL DOCKETS NO(S) 517270; 152773; 525397; 154409 PETITIONER SUFFERED A VIOLATION OF DUE PROCESS OF THE LAW WHERE PETITIONER'S RIGHT TO CONFRONT WITNESSES AGAINST HIM UNDER THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION WAS DENIED. PETITIONER SOUGHT REVERSAL OF CONVICTION AND DISMISSAL

d. PETITIONER WAS DEPRIVED OF HIS RIGHTS UNDER FEDERAL CONSTITUTION WHERE PROSECUTION FAILED TO DISCLOSE EXCULPATORY EVIDENCE, AND COURT EXCLUDED EXCULPATORY EVIDENCE THAT WAS MATERIAL TO PETITIONER'S GUILT BEING NEGATED, AND WOULD RENDER CULPABILITY OF GUILT AT PETITIONER'S TRIAL HAD EXCULPATORY EVIDENCE BEEN AVAILABLE TO BE INTRODUCED AT THE TRIAL OF PETITIONER. PETITIONER SOUGHT REVERSAL OF CONVICTION AND DISMISSAL OF CAUSE WITH PREJUDICE AGAINST PROSECUTION.

[CONTINUED]

- ATTACHMENT PAGE -

(2) RELIEF SOUGHT IN ANY PROCEEDING OTHER THAN AN APPEAL: (CONT.)

GROUND(S) RAISED (CONT.)

VI. e. TRIAL COURT DENIAL OF PETITIONER'S MOTION TO RECUSAL/DISQUALIFY, AND HIS MOTION TO SET ASIDE TRIAL INFORMATION AGAINST HIM WAS AN ABUSE OF DISCRETION AND VIOLATES PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS UNDER UNITED STATES CONSTITUTION. PETITIONER SOUGHT REVERSAL OF CONVICTION AND DISMISSAL WITH PREJUDICE

F. COURT APPOINTED COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL UNDER FEDERAL CONSTITUTION WHERE IN CRIMINAL DOCKET NO(S). 517270; 152773; 525397; 154409 WHERE PETITIONER SUFFERED DUE PROCESS LAW VIOLATIONS WHERE A PROMPT PROBABLE CAUSE DETERMINATION REQUIREMENT WAS NOT COMPLIED WITH AFTER A WARRANTLESS ARREST OF PETITIONER FOR ROBBERY, AND DELAY WHERE DELAY WAS UNNECESSARY AND INTENTIONAL TO GAIN TACTICAL ADVANTAGE OVER THE PETITIONER, COURT APPOINTED COUNSEL FAILED TO CHALLENGE THE VIOLATION ON A MOTION TO SET ASIDE. PETITIONER SOUGHT REVERSAL OF CONVICTION AND A DISMISSAL OF CHARGE.

g. COURT APPOINTED COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL TO PETITIONER BY HAVING A CONFLICT OF INTEREST ISSUE OF PETITIONER'S MENTAL COMPETENCY, WHERE PETITIONER HAD NO MENTAL ILLNESS OR SHOWS ANY SIGN OF MENTAL INCOMPETENCY OR DEVELOPMENT OF A MENTAL DISABILITY. THIS PREJUDICED PETITIONER RIGHT TO EFFECTIVE COUNSEL UNDER THE FEDERAL CONSTITUTION. PETITIONER SOUGHT REVERSAL OF CONVICTION AND DISMISSAL OF CHARGE. [CONTINUED]

PETITION FOR WRIT OF HABEAS CORPUS - 5(c) -

- ATTACHMENT PAGE -

(2) RELIEF SOUGHT IN ANY PROCEEDING OTHER THAN AN
APPEAL: (CONT.)

VI. g. RESULT: PETITION ORDERED STRIKEN AND WAS
ORDERED FILED AS A SUPPLEMENTAL TO PETITION FOR
WRIT OF HABEAS CORPUS NO. 815805 WHICH WAS DENIED
MARCH 26, 2008. DATE OF RESULT 03-04-08

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PETITION FOR WRIT OF HABEAS CORPUS - 5(F) -

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: COUNSEL OF RECORD RENDERED PETITIONER FEDERAL CONSTITUTIONALLY
6 INEFFECTIVE ASSISTANCE OF COUNSEL. [SEE ATTACHMENT]

7 Supporting Facts: [SEE ATTACHMENT]

8 u

9 u

10 u

11 Claim Two: [SEE ATTACHMENT]

12 u

13 Supporting Facts: [SEE ATTACHMENT]

14 u

15 u

16 u

17 Claim Three: [SEE ATTACHMENT]

18 u

19 Supporting Facts: [SEE ATTACHMENT]

20 u

21 u

22 u

23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 ~~none~~ N/A

26 u

27 u

28 u

- ATTACHMENT PAGE -

B. GROUNDS FOR RELIEF

CLAIM ONE: [CONT.] INEFFECTIVE ASSISTANCE OF COUNSEL WAS RENDERED WHERE COUNSEL FAILED TO MOVE ON A SUPPRESSION MOTION ON ILLEGALLY OBTAINED EVIDENCE. COUNSEL FAILED TO CHALLENGE THE LEGALITY OF AN ILLEGAL SEARCH AND ENTRY OF PETITIONER'S RESIDENCE BY THE OAKLAND POLICE AND DELIBERATELY CONCEALED IT FROM THE COURT CONSIDERING THE SEARCH WARRANT AFFIDAVIT. PETITIONER SEEKS REVERSAL OF CONVICTION, BECAUSE OF COUNSEL'S FAILINGS THERE IS A REASONABLE PROBABILITY THAT RESULTS WOULD HAVE BEEN IN THE PETITIONER'S FAVOR.

SUPPORTING FACTS: ON MARCH 8, 2006 OAKLAND POLICE RECEIVED AN ANONYMOUS CALL REGARDING A NEWSPAPER ARTICLE SEEKING ANY INFORMATION OR AN IDENTITY OF A ROBBERY SUSPECT. THE CALLER (WHO REMAINED UNKNOWN) STATED THAT PETITIONER WAS THE SUSPECT IN THE NEWSPAPER ARTICLE. OAKLAND POLICE RAN PETITIONER'S NAME THROUGH ITS COMPUTER SYSTEM AND FOUND A BENCH WARRANT (FEDERAL) FOR A FAILURE TO APPEAR AT A PROBATION VIOLATION HEARING. OAKLAND POLICE SENT OFFICERS TO ARREST PETITIONER FOR THE FEDERAL BENCH WARRANT (NO. CR-03-40116 CW), BUT WHEN OFFICERS ARRIVED TO PETITIONER'S RESIDENCE, PETITIONER WAS OUTSIDE OF HIS RESIDENCE, OFFICER WALKER ARRESTED PETITIONER AND PLACED HIM INTO HIS PATROL CAR (POLICE REPORT NO. 06-022056) WHILE PETITIONER WAS PLACED IN HIS CAR (POLICE REPORT NO. 06-022056) OFFICER WALKER AND OTHER OFFICERS ENTERED AND SEARCHED PETITIONER'S RESIDENCE WITHOUT A WARRANT, WHEREAFTER SGT. A. PEREZ SOUGHT A SEARCH WARRANT AND FAILED TO INFORM THE COURT CONSIDERING THE SEARCH WARRANT AFFIDAVIT ABOUT THE WARRANTLESS ENTRY AND SEARCH BY HIS OFFICERS HE SENT. PETITIONER'S APPOINTED COUNSEL FAILED TO MOVE FOR A SUPPRESSION MOTION OR CHALLENGE THE LEGALITY OF THE WARRANTLESS SEARCH AND ENTRY OR THE OMISSIONS [CONT.]

- ATTACHMENT PAGE -

[CONT.] THAT SGT. A PEREZ DID NOT SUBMIT IN THE AFFIDAVIT FOR SEARCH WARRANT. (SEE CASE NOTE 06-04474; AFFIDAVIT FOR SEARCH WARRANT)

CLAIM TWO: COURT APPOINTED COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL UNDER FEDERAL CONSTITUTION WHERE IN CRIMINAL DOCKET NO(S). 517270; 152773; 825327; 154409 PETITIONER SUFFERED DUE PROCESS AND SPEEDY TRIAL RIGHTS VIOLATIONS OF STATE AND UNITED STATES CONSTITUTIONS. PETITIONER SEEKS REVERSAL OF CONVICTION AND DISMISSAL OF CONVICTION.

SUPPORTING FACTS: ON MARCH 8, 2006 PETITIONER WAS ARRESTED (SEE CASE NOTES NO(S). 06-011874; 06-019306; 06-014545; 06-04760) FOR ROBBERY. ON MARCH 13, 2006 PETITIONER WAS ARRAIGNED AND GIVEN A PROMPT PROBABLE CAUSE DETERMINATION FOR MARCH 8, 2006 WARRANTLESS ARREST. PETITIONER WAIVED NO RIGHT FOR A PRELIMINARY EXAMINATION IN 60 DAYS OF HIS ARRAINGMENT. ON JUNE 5, 2006 PETITIONER'S PRELIMINARY EXAMINATION WAS SET WITH NO EXPLANATION FOR THE UNNECESSARY DELAY. ON JUNE 29, 2006 A TRIAL INFORMATION WAS FILED, WHERE ON AUGUST 2, 2006 (TWO DAYS AFTER A MARSHEN HEARING AGAINST COUNSEL 07-31-C BY PETITIONER) COUNSEL (APPOINTED) MADE A MOTION FOR PETITIONER TO BE EVALUATED FOR COUNSEL'S BELIEF THAT PETITIONER HAD A MENTAL INCOMPETENCY TO PROCEED AND ASSISTANCE IN HIS DEFENSE. PROSECUTION MADE NO OBJECTION, AND PETITIONER HAD TWO EVALUATIONS COMPLETED WHICH REFLECTED THAT PETITIONER WAS COMPETENT TO STAND TRIAL AND ASSIST HIS DEFENSE. ON OCTOBER 25, 2006 AFTER THE COURT MADE A FINDING OF PETITIONER BEING COMPETENT, COURT GAVE THE PROSECUTION 60 DAYS TO BRING PETITIONER TO TRIAL, BUT THE PROSECUTION REQUEST NONE OF THE 60 DAYS WHAT SO EVER. ON DECEMBER 13, 2006 WHILE PETITIONER WAS MOVING TO RECUSE THE TRIAL JUDGE BECAUSE TRIAL JUDGE HAD VIOLATED PETITIONER'S

PETITION FOR WRIT OF HABEAS CORPUS - 6(C) -

- ATTACHMENT PAGE -

[CONT.] SPEEDY TRIAL RIGHTS AND FOR BIASNESS FOR REQUIRING PETITIONER TO BE EVALUATED FOR MENTAL INCOMPETENCY. THE TRIAL JUDGE GRANTED PETITIONER'S RECURAL MOTION AND STATED ON THE RECORD THAT LEGAL ERROR WAS MADE ON HIS PART. ON THE SAME HEARING AND RECORD APPOINTED COUNSEL STATED THAT COUNSEL KNEW PETITIONER WANTED A DISMISSAL ON HIS RIGHTS OF BOTH STATE STATUTORY AND CONSTITUTION RIGHTS TO SPEEDY TRIAL BEING VIOLATED AND FOR HIS UNITED STATES CONSTITUTION SIXTH AMENDMENT RIGHT TO SPEEDY TRIAL BEING VIOLATED BY THE COURT. ON DECEMBER 19, 2006 COUNSEL AND THE PROSECUTION MADE AN AGREEMENT TO DISMISS THE CRIMINAL CAUSE, NO. 152773 TO REFILE. THE COUNSEL (APPOINTED) HAD NO CONSENT FROM PETITIONER TO CONDUCT ANY AGREEMENT FOR A REFILEING OF THE CRIMINAL CAUSE, AND ON THAT DATE CAUSE WAS DISMISSED TO REFILE AND CRIMINAL DOCKET NO. 525327 WAS FILED (12-19-06) CHARGING PETITIONER WITH 19 COUNTS OF ROBBERY. ON JANUARY 3, 2006 COUNSEL ALLOWED FOR AN UNNECESSARY CONTINUANCE TO OCCUR AT THE PRELIMINARY EXAMINATION FOR PROSECUTION WHERE NO GOOD CAUSE WAS AVAILABLE FOR IT. COUNSELS THAT WERE APPOINTED TO PETITIONER NEVER MADE MOTIONS FOR THE SUBSTANTIAL RIGHTS THAT WERE IN VIOLATION OF PETITIONER'S STATE AND FEDERAL CONSTITUTIONAL RIGHTS TO DUE PROCESS, FAIR TRIAL, AND SPEEDY TRIAL, WHICH ARE GROUNDS FOR A DISMISSAL. THERE IS A REASONABLE PROBABILITY THAT FOR COUNSEL(S) FAILURES THE RESULT WOULD BEEN FAVORABLE FOR PETITIONER, WHERE NOW PETITIONER HAS BEEN PREJUDICED.

- ATTACHMENT SHEET -

Grounds for Relief: [Cont.]

CLAIM THREE: APPOINTED COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL UNDER FEDERAL CONSTITUTION WHERE IN CRIMINAL DOCKETS NO(S). 517270; 152773; 525327; 154409 PETITIONER SUFFERED THE VIOLATIONS OF OUR PROCESS OF LAW AND RIGHT TO CONFRONT ALL WITNESSES AGAINST HIM, UNDER THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION, AND THE FIFTH AND FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION. PETITIONER SEEKS A REVERSAL OF CONVICTION AND DISMISSAL OF ~~CAUSE~~ ^{CAUSE} BECAUSE OF COUNSEL'S FAILING IN MAKING MOTIONS FOR THE VIOLATIONS OF PETITIONER'S CONSTITUTIONAL RIGHTS. THERE IS A REASONABLE PROBABILITY THAT RESULT WOULD HAVE BEEN FAVORABLE FOR PETITIONER.

SUPPORTING FACTS: ON MARCH 8, 2008 OAKLAND POLICE RECEIVED AN ANONYMOUS CALL WHERE CALLER STATED THAT PETITIONER WAS THE ROBBERY SUSPECT IN A NEWS PAPER ARTICLE SEEKING INFORMATION OR IDENTITY OF ROBBERY SUSPECT. AFTER RUNNING PETITIONER'S NAME AFTER THE ANONYMOUS CALL, OAKLAND POLICE RAN PETITIONER'S NAME ON THEIR COMPUTER SYSTEM AND FOUND THAT THERE WAS A FEDERAL BENCH WARRANT FOR PETITIONER'S ARREST FOR FAILURE TO APPEAR AT A VIOLATION OF SUPERVISE RELEASE CONDITIONS. OAKLAND POLICE SENT OFFICER TO ARREST PETITIONER FOR THE BENCH WARRANT, BUT INTENDED TO ARREST PETITIONER FOR ROBBERY. AT CRIMINAL DOCKET NO. 517270 PROSECUTION DID NOT DISCLOSE THE IDENTITY OF THE ANONYMOUS CALLER AND HAD REASON TO BECAUSE CALLER WAS MATERIAL FOR OAKLAND POLICE'S PROBABLE

PETITIONER FOR WRIT OF HABEAS CORPUS - (6(c)) -

- ATTACHMENT PAGE -

[CONT.] CAUSE TO ARREST PETITIONER FOR ROBBERY CHARGE'S AND FOR A SEARCH WARRANT OF PETITIONER'S RESIDENCE. ALSO OFFICERS WHO WERE SENT TO PETITIONER'S RESIDENCE, STATED THAT IT WAS BECAUSE OF CAUSE STATEMENT THAT PETITIONER WAS THEIR SUSPECT THE ENTERED AND SEARCHED PETITIONER'S RESIDENCE WITHOUT A WARRANT. (SEE CASE NOTES NO(S). 06-011874; OAKLAND POLICE REPORT NO. 06-022056; SGT. A. PEREZ'S AFFIDAVIT FOR SEARCH WARRANT). CALLER WAS MATERIAL IN PETITIONER'S PRELIMINARY EXAMINATIONS OF CRIMINAL DOCKETS NO(S). 517270 AND 525327 AND IN DOCKET NO 154404 TRIAL PROCEEDINGS. PROSECUTION HAS HAD A PHONE NUMBER TO GET IN CONTACT AND COULD OF DISCLOSED THE ANONYMOUS IDENTITY. COUNSEL FAILED TO A MOTION COMPLAINING ABOUT THE DEPRIVEMENT OF PETITIONER'S RIGHT TO CONFRONT THE WITNESS AGAINST HIM AND THE FAILURE HAS PREJUDGED HIM. BECAUSE OF COUNSEL'S FAILINGS IT IS A REASONABLE PROBABILITY THAT THE RESULTS WOULD HAVE BEEN FAVORABLE FOR THE PETITIONER.

CLAIM FOUR: PETITIONER WAS DEPRIVED OF DUE PROCESS OF LAW UNDER THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION WHERE PROSECUTION FAILED TO DISCLOSE EXCLUPATORY EVIDENCE, AND COURT EXCLUDED THE EXCLUPATORY EVIDENCE OF AN IDENTIFICATION TESTIMONY THAT NEGATED GUILT OF PETITIONER BEING THE ROBBER IN THE CRIMINAL CAUSE. THE EXCLUDED EXCLUPATORY IDENTIFICATION TESTIMONY WOULD OF REDUCED CULPABILITY OF GUILT AT PETITIONER'S TRIAL HAD THE EXCLUPATORY EVIDENCE HAD BEEN AVAILABLE TO BE INTRODUCED AT PETITIONER'S TRIAL, THIS IS A VIOLATION OF PETITIONER'S RIGHT TO A FAIR TRIAL UNDER THE SIXTH AMENDMENT

PETITION FOR WRIT OF HABEAS CORPUS - 6 (P) -

- ATTACHMENT PAGE -

[CONT.] OF THE UNITED STATES CONSTITUTION, PETITIONER SEEKS
REVERSAL OF CONVICTION AND DISMISSAL OF CAUSE.

SUPPORTING FACTS: ON JUNE 15, 2006 AT CRIMINAL DOCKET NO. 517270 PRELIMINARY EXAMINATION THE PROSECUTION BROUGHT TO THE STAND WAS COMPLAINANT WITNESS SAMBROS LA FARGUE. SHE WAS SWORN ON BEHALF OF THE PROSECUTION AND WAS TESTIFYING ABOUT THE ROBBERY THAT OCCURRED JANUARY 5, 2006, WHERE SHE WAS THE VICTIM ROBBED. DURING HER TESTIMONY THE PETITIONER WAS SHIELDED BY A BLACK-BOARD BECAUSE LA FARGUE HAD NOT ATTENDED THE LINE UP OF MARCH 10, 2006 WHICH HER CO-WORKERS HAD ATTENDED AND WHERE PETITIONER WAS PICKED AS THE SUSPECT. LA FARGUE HAD CO-WORKERS WHO WERE ROBBED ON OTHER CAUSES CHARGED AGAINST PETITIONER. AFTER LA FARGUE HAD COMPLETED HER TESTIMONY THE PROSECUTION REMOVED THE BLACK BOARD, AND WAS ASKED IF SHE COULD IDENTIFY THE ROBBERY SUSPECT IN THE COURTROOM. AT THIS TIME THE PETITIONER WAS THE ONLY PERSON DRESSED IN JAIL CLOTHING ON THE DEFENSE SIDE OF THE COURTROOM. LA FARGUE WHOSE STATEMENTMENT WRITTEN AND WHOSE ORAL TESTIMONY WAS SHE COULD BE ABLE TO IDENTIFY THE ROBBERY SUSPECT IF SEEN ASIAN LOOK AT THE PETITIONER AND STATED THAT SHE DID NOT SEE THE ROBBERY SUSPECT IN THE COURTROOM. AFTER BEING ASKED AGAIN BY PROSECUTION AND BY THE DEFENSE WAS SHE SURE, LA FARGUE STATED SHE WAS SURE. THIS TESTIMONY AND NON-IDENTIFICATION WAS EXCLUDED OUT OF THE RECORD AND PREJUDICED PETITIONER OF A FAIR TRIAL, WHERE THE NON-IDENTIFICATION POSSES EXCLUPATORY VALUE AND OF SUCH A NATURE THAT PETITIONER WAS UNABLE TO OBTAIN THE EXCLUPATORY EVIDENCE BY OTHER MEANS,

PETITION FOR WRIT OF HABEAS CORPUS - 6(g) -

- ATTACHMENT PAGE

[CONT.] THIS INCLUDES APPOINTED COUNSEL ASSISTANCE IN OBTAINING THE EXCLUSORY EVIDENCE. THERE IS REASONABLE PROBABILITY OF A DIFFERENT OUTCOME THAT IF LA FARGUE'S NON-IDENTIFICATION WAS NOT EXCLUDED COULD OF REASONABLY TAKEN TO PUT THE WHOLE TRIAL IN A DIFFERENT LIGHT AS TO UNDERMINE ANY CONFIDENCE IN PETITIONER'S TRIAL VERDICT.

CLAIM FIVE: TRIAL COURT'S DENIAL OF PETITIONER'S MOTION TO REUSE/DISQUALIFY JUDGE CONGER TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 170.6 PEREMPTORY CHALLENGE, AND PETITIONER'S MOTION TO SET ASIDE TRIAL CRIMINAL DOCKET NO. 154409 WAS AN ABUSE OF DISCRETION AND VIOLATES PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS UNDER FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION. PETITIONER IS PREJUDICED BY TRIAL COURT'S RULING OF PETITIONER'S MOTION BEING CONTINGUOUS AND RULING ON PETITIONER'S MOTION TO SET ASIDE WITHOUT ANY FINDING OF FACT OR LAW. PETITIONER SEeks FOR REVERSAL OF CONVICTION AND A DISMISSAL OF CAUSE.

SUPPORTING FACTS: ON JANUARY 22, 2007 CRIMINAL DOCKET NO. 154409 PETITIONER WAS ARRAIGNED FOR ROBBERY COUNTS. ON MARCH 12, 2007 JUDGE JULIE CONGER WAS ASSIGNED AS TRIAL JUDGE OF CRIMINAL DOCKET NO. 154409. ON MARCH 13, 2007 PETITIONER MADE HIS FIRST APPEARANCE IN JUDGE CONGER'S COURTROOM, WHERE PETITIONER ADVICE APPOINTED COUNSEL OF DESIRE TO HAVE JUDGE CONGER REUSED/DISQUALIFIED. COUNSEL AFTER A IN CHAMBERS CONFERENCE INFORMED OFF RECORD THAT JUDGE CONGER HAD DENIED THE MOTION. ON MARCH 14, 2007 COUNSEL (APPOINTED) INDICATED ON RECORD OF CRIMINAL DOCKET NO. 154409

PETITION FOR WRIT OF HABEAS CORPUS - 6(h)

- ATTACHMENT PAGE -

[CONT.] THAT PETITIONER WISHED TO MOVE TO DISQUALIFY JUDGE CONGER BASED ON HER RULING IN A MARSDEN HEARING IN THE CRIMINAL DOCKET NO. 152773 WHERE SHE MADE COMMENTS LIKE THAT A GOOD GROUND FOR AN APPEAL AND DENIES THE MARSDEN MOTION WHICH KEPT THE COUNSEL WHO MOVED TO HAVE PETITIONER EXCUSED FOR COUNSEL'S BELIEF THAT PETITIONER SUPPOSEDLY HAD A MENTAL INCOMPETENCY. AND ALSO BASED ON THE RIGHT TO LITIGATE A PEREMPTORY CHALLENGE TO REUSE JUDGE CONGER OFF AS TRIAL JUDGE, THIS IS PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 170-6. JUDGE CONGER FIRST WITH APPOINTED COUNSEL MISSTATES THE LAW WHERE PETITIONER HAS A RIGHT TO EXERCISE THE PEREMPTORY CHALLENGE. JUDGE CONGER STATES THAT ONLY APPOINTED COUNSEL HAS THE RIGHT TO EXERCISE THE CHALLENGE. APPOINTED COUNSEL STATED THAT IT WAS NOT HER POSITION FOR AN EXERCISE OF THE CHALLENGE OR HER DESIRE. LATER ON OF MARCH 14, 2006 TRIAL SESSION THE TRIAL JUDGE REALIZED THAT PETITIONER CAN EXERCISE A CODE OF CIVIL PROCEDURE SECTION 170-6 PEREMPTORY CHALLENGE TO REUSE JUDGE CONGER AND FURTHER MISSTATES THE LAW WHERE SHE BASED HER DENIAL ON THE PEREMPTORY CHALLENGE BEING MADE TWO DAYS AFTER SHE WAS ASSIGNED TO THE CAUSE AS TRIAL JUDGE, AND ALTHOUGH COUNSEL WAS ADVISED MARCH 13, 2006 THE FIRST APPEARANCE PETITIONER APPEARED BEFORE JUDGE CONGER THAT HE DESIRE HER REUSED. THE MOTION, BY JUDGE CONGER'S RULING SHOULD OF BEEN MADE BY PETITIONER ON HIS FIRST APPEARANCE BEFORE HER. AND ALTHOUGH COUNSEL WAS ADVISED THAT DAY, FROM JUDGE JUIE CONGER'S RULING PETITIONER HAD TO MAKE THE MOTION HIMSELF. THIS COMES AFTER

PETITION FOR WRIT OF HABEAS CORPUS - 6(i) -

- ATTACHMENT PAGE -

[CONT.] JUDGE CONGER STATED EARLY IN THE HEARING THAT ONLY APPOINTED COUNSEL COULD MAKE THE CHALLENGE, BUT STILL CODE OF CIVIL PROCEDURES SECTION 170.6 READS "IF DIRECTED TO THE TRIAL OF A CAUSE WHICH HAS BEEN ASSIGNED TO A JUDGE FOR ALL PURPOSES, THE MOTION SHALL BE MADE TO THE ASSIGNED JUDGE OR PRESIDING JUDGE BY A PARTY WITHIN 10 DAYS AFTER NOTICE OF THE ALL PURPOSE ASSIGNMENT, OR IF THE PARTY HAS NOT YET APPEARED IN THE ACTION, THEN WITHIN 10 DAYS AFTER THE APPEARANCE" AND LEAVES JUDGE JULE CONGER MISSTATING THE LAW WHICH DEPRIVES PETITIONER OF DUE PROCESS OF LAW UNDER UNITED STATES CONSTITUTION AND HAS PETITIONER PREJUDICED BY JUDGE JULE CONGER ERRONEOUS DENIAL OF THE PEREMPTORY CHALLENGE MOTION. BECAUSE OF THE ACTIONS OF JUDGE CONGER IT IS A REASONABLE PROBABILITY THAT THE RESULTS WOULD BE FAVORABLE FOR THE PETITIONER.

CLAIM SIX: COURT APPOINTED COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL UNDER FEDERAL CONSTITUTIONAL RIGHT OF THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION WHERE PETITIONER SUFFERED A PREJUDICE TO HIS DUE PROCESS OF LAW RIGHTS, WHERE HE WAS NOT BROUGHT TO A PROMPT PROBABLE CAUSE DETERMINATION AFTER HIS WARRANTLESS ARREST BY OAKLAND POLICE FOR ROBBERY. THERE WAS AN UNNECESSARY DELAY AND INTENTIONALLY DONE TO GAIN A TACTICAL ADVANTAGE OVER THE PETITIONER. APPOINTED COUNSEL FAILED TO CHALLENGE THE VIOLATION ON A MOTION TO SET ASIDE AND HAS PREJUDICED THE PETITIONER. PETITIONER SEEKS REVERSAL OF CONVICTION AND DISMISSAL OF CAUSE, BECAUSE OF COUNSEL'S FAILURES IT IS A REASONABLE PROBABILITY THAT THE RESULTS WOULD HAVE BEEN FAVORABLE FOR PETITIONER.

PETITION FOR WRIT OF HABEAS CORPUS - 6 (j) -

- ATTACHMENT PAGE -

[CONT.]

SUPPORTING FACTS: ON MARCH 8, 2006 OAKLAND POLICE ARRESTED PETITIONER FOR ROBBERY WARRANTLESS, ON MARCH 10, 2006 PETITIONER WAS PLACED INTO A (SUGGESTIVE) LINEUP, IT WAS 7:15 PM AND PETITIONER HAD NOT BEEN ARRANGED FOR THE WARRANTLESS ARREST OF ROBBERY ON MARCH 8, 2006. ON MARCH 13, 2006 PETITIONER WAS ARRANGED FOR MULTIPLE COUNTS OF ROBBERY AND SUPPOSE IT HAD A PROMPT PROBABLE CAUSE DETERMINATION THAT SAME DAY. THE COURT APPOINTED COUNSEL FAILED TO MAKE ANY MOTIONING TO SUPPRESS THE (SUGGESTIVE) LINEUP ON THE BASIS OF AN UNNECESSARY DELAY WAS INTENTIONALLY MADE TO GAIN TACTICAL ADVANTAGE OVER PETITIONER TO PARTICIPATE IN THE LINEUP AFTER A PROMPT PROBABLE CAUSE DETERMINATION SHOULD OF BEEN CONDUCTED TO FURTHER RESTRAIN PETITIONER IN CUSTODY. THE LINEUP THAT WAS CONDUCTED MARCH 10, 2006 WAS FOR THE PURPOSE TO PROVIDE EVIDENCE TO PROSECUTE PETITIONER, WHERE THE IDENTIFICATIONS OF THE (SUGGESTIVE) LINEUP WAS USED AS CHIEF EVIDENCE TO PROSECUTE THE PETITIONER. BECAUSE OF COUNSEL'S FAILURES IT IS A REASONABLE PROBABILITY THAT THE RESULTS WOULD HAVE BEEN FAVORABLE FOR PETITIONER.

CLAIM SEVEN: COURT APPOINTED COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL TO PETITIONER BY HAVING A CONFLICT OF INTEREST AGAINST PETITIONER'S MENTAL COMPETENCY, WHERE NO MENTAL ILLNESS EXISTS, OR WHERE NO SIGN OF MENTAL INCOMPETENCE, OR ANY DEVELOPMENT OF A MENTAL DISABILITY EXISTS TO HOLD CONCERN TO MOTION COURT TO HAVE THE PETITIONER EVALUATED. THE COURT APPOINTED COUNSEL VIOLATED PETITIONER RIGHT

PETITION FOR WRIT OF HABEAS CORPUS - G(K) -

- ATTACHMENT PAGE -

[CONT.] TO EFFECTIVE COUNSEL UNDER THE SIXTH AMENDMENT AND FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION. PETITIONER SEEKS REVERSAL OF CONVICTION AND DISMISSAL OF CHARGE.

SUPPORTING FACTS: AFTER A JULY 31, 2006 MARSHEN HEARING WHICH WAS HELD TO DETERMINE IF COUNSEL SHOULD BE EXCUSSED, APPOINTED COUNSEL TONY L. CHENG HAD A CONFLICT OF INTEREST AGAINST PETITIONER. ON AUGUST 2, 2006 COUNSEL WENT IN TO COURT ABSENT PETITIONER BEING PRESENT AND MADE A MOTION FOR PETITIONER TO BE EVALUATED BECAUSE COUNSEL BASED A SUPPOSED REVIEW OF FILES AND CONVERSATIONS HAD A PRESENTED DOUBT AS TO PETITIONER'S MENTAL COMPETENCY. PETITIONER'S STATE AND FEDERAL SPEEDY TRIAL RIGHT WERE SET ASIDE FROM AUGUST 2, 2006 TO OCTOBER 25, 2006 WHERE PETITIONER WAS FOUND COMPETENT TO STAND TRIAL. THE JUDGE WHO GRANTED COUNSEL'S MOTION FOR PETITIONER TO BE EVALUATED STATED ON DECEMBER 18, 2006 THAT HAD HE LOOKED AT THE SUPPOSED FILE COUNSEL BASED HIS GROUNDS ON, THE JUDGE WOULD HAVE SEEN THAT PETITIONER HAD NO PSYCHIATRIC BACKGROUND, AND THE COUNSEL MOTION WAS BASED ON A DISAGREEMENT IN TACTICS, THE JUDGE FURTHER STATED NOTHING IN THE COURT RECORD, PETITIONER'S PAST HISTORY OR ANYTHING CURRENT THAT SHOWED THAT PETITIONER WAS INCOMPETENT IN THE SENSE OF HIS ABILITY TO CHOOSE WHICH LEGAL TACTIC HE DESIRED TO TAKE. (SEE CRIMINAL DOCKET NO. 152773, DECEMBER 18, 2006 TRANSCRIPT PGS 1-3 LINE 1-12). ON OCTOBER 25, 2006 PETITIONER WAS APPOINTED ANDREW AULR AT THE TIME OF THE COURT RULING PETITIONER WAS MENTALLY COMPETENT. COUNSEL SHOWED CONFLICT OF INTEREST AGAINST PETITIONER AS WELL

PETITION FOR WRIT OF HABEAS CORPUS - 6(1) -

- ATTACHMENT PAGE -

[CONT.] WHERE PETITIONER IN CRIMINAL DOCKET NO. 152773 AND ALSO IN CRIMINAL DOCKET NO. 525397 MADE ATTEMPTS TO HAVE COUNSEL EXCHANGED THROUGH MARGEN HEARINGS. WITH NEGATIVE RESULTS PETITIONER HAD TO GO THROUGH HIS TRIAL PROCESS WITH COUNSEL WHO HELD AN APPOINTED COUNSEL WHO HELD A CONFLICT OF INTEREST AGAINST PETITIONER. ON MAY 14, 2007 COURT APPOINTED COUNSEL WROTE A LETTER TO DEPUTY PROBATION OFFICER ENRIQUEZ @ ISNEROS REGARDING SUPPOSE IT ON PETITIONER BE HALF, BUT CLEARLY AND PREJUDICIALLY DESCRIBES HIM HAVING AN UNREMEDIABLY MENTAL ILLNESS WHICH IS UNTREATED. COUNSEL AGAIN IN A LETTER DATED MAY 14, 2007 TO THE TRIAL JUDGE JULIE CONGER STATED THAT PETITIONER'S EVALUATION BY TWO PSYCHIATRISTS FAILED TO SUPPORT IT GRASP THAT PETITIONER'S OPPRESSIVE PERSONALITY DISORDER WAS SINGULAR F fixATED ON THE ISSUE OF DEFENDING HIS CASE. COUNSEL GOES ON TO STATE TO THE TRIAL JUDGE HER REQUEST FOR PETITIONER'S SENTENCE DETERMINATION IS APPROPRIATE BECAUSE OF PETITIONER'S CRIMINAL CONDUCT, HIS DRUG ADDICTION, AND HER OPINION OF PETITIONER HAVING A "COMPLICATING MENTAL ILLNESS". THESE FACTS CONSTITUTE A REAL CONFLICT OF INTEREST BETWEEN APPOINTED COUNSEL AND PETITIONER AND REVEALS THAT PETITIONER WAS PREJUDICED TO HAVING EFFECTIVE ASSISTANCE OF COUNSEL.

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PETITION FOR WRIT OF HABEAS CORPUS - 6(m) -

List, by name and citation only, any cases that you think are close factually to yours so that they are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning of these cases:

[ATTACHMENT PAGES]

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Do you have an attorney for this petition? Yes _____ No X

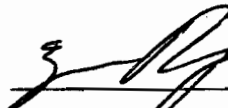
If you do, give the name and address of your attorney:

N/A

WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

Executed on APRIL 20, 2008

Date



Signature of Petitioner

(Rev. 6/02)

- ATTACHMENT PAGE -

[CONT.] U.S. v. SPARKS (9th Cir. 1996) 87 F.3d 276, 279;
GERSTIN v. PUGH (1975) 420 U.S. 103, 114, 120, 125 FN 20,
SEE pp. 120 FN 21; COUNTY OF RIVERSIDE v. McLAUGHLIN (1991)
500 U.S. 44, 56-58; KANEKOA v. HONOLULU (9th Cir. 1989)
879 F.2d 607, 610-611; (Id.) WILLIS v. CITY OF CHICAGO
(7th Cir. 1993) 999 F.2d 284, 288-289

CLAIM SEVEN: STARKLAND v. WASHINGTON (1984) 466 U.S. 668,
692; CUGLER v. SULLIVAN (1980) 446 U.S. 335, 348; U.S. v.
DEL MURO (9th Cir. 1996) 87 F.3d 1078, 1080-1081

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PETITION FOR WRIT OF HABEAS CORPUS - 7(d) -

- ATTACHMENT PAGE -

- CASE CITATIONS RELATING TO CASE -

CLAIM ONE: STRICKLAND V. WASHINGTON (1984) 466 U.S. 668;
U.S. V. ERONIC (1984) 466 U.S. 648; KIMMELAN V. MORRISON
(1986) 477 U.S. 365; MURRY V. U.S. (1988) 487 U.S. At pp 542-
 544; PAYTON V. NEW YORK (1980) 445 U.S. 573, 587-589;
U.S. V. VASEY (1987) 834 F.2d 782, 788-790; IN RE WINSON
(1992) 3 Cal. 4th 945; PEOPLE V. MEDOZA (1997) 15 Cal. 264

CLAIM TWO: GERNSTIEN V. PUGH (1975) 420 U.S. 103, 125;
COUNTY OF RIVERSIDE V. MC LAUGHLIN (1991) 500 U.S. 44, 56;
STRICKLAND V. WASHINGTON (1984) 466 U.S. 668, 688, 694;
SERRATO V. SUPERIOR COURT (1978) 76 Cal. App. 459, 464-466;
CANDRUM V. SUPERIOR COURT (1981) 30 Cal. 3d 1, 6; PEOPLE V.
ALBAREZ (1989) 209 APP. 3d 567, 574-575; IRVING V.
SUPERIOR COURT (1979) 93 Cal. App. 596, 600; CARRAWAY V.
SUPERIOR COURT (1981) 118 Cal. App. 150, 153-154; PEOPLE V.
MACEY (1985) 176 Cal. App. 177, 184-186; PEOPLE V. KOWALSKI
(1987) 196 Cal. App. 3d 174, 179; PEOPLE V. MARTINEZ (2000) 22 Cal.
 4th 750, 766; PEOPLE V. CEBESMA (1987) 43 Cal. 3d 171, 216,
 233; COCEMAN V. ALABAMA (1970) 399 U.S. 1, 11

CLAIM THREE: STRICKLAND V. WASHINGTON (1984) 466 U.S. 668;
~~CANDRUM~~ U.S. V. ERONIC (1984) 466 U.S. 648; KIMMELAN
V. MORRISON (1986) 477 U.S. 365; CRAWFORD V. WASHINGTON (2004)
 124 S.Ct. 1354, 1367-1368, 1374; MADDOX V. UNITED STATES (1985)
 156 U.S. 237, 15 S.Ct. 337, 39 L.Ed. 409; OHIO V. ROBERTS (1980)
 448 U.S. , At pp. 67-70; PEOPLE V. PARTLOW (1978) 84 Cal. App. 3d 540;
THEODOR V. SUPERIOR COURT (1972) 8 Cal. 3d 77; BRADY V. MARYLAND (1963)
 373 U.S. 83.

- ATTACHMENT PAGE -

- CASE CITATIONS RELATED TO CASE [LAND.] -

CLAIM FOUR: BRADY v. MARYLAND (1983) 373 U.S. 83, 87;
THOMAS v. GOLDSMITH (9th Cir. 1992) 979 F.2d 746, 749-50;
UNITED STATES v. BAGLEY (1985) 473 U.S. 667, 676-77;
GIBLIO v. U.S. (1972) 405 U.S. 150, 154; U.S. v. HANNA (9th Cir. 1995) 55 F.3d 1456, 1460-61; KYLES v. WHITLEY (1995) 115 S.Ct. 1555, 1567; U.S. v. WOOD (9th Cir. 1995) 57 F.3d 733, 737;
BROWN v. BORG (9th Cir. 1991) 951 F.2d 1011, 1015; UNITED STATES v. BAGLEY (1985) 473 U.S. 667, 669-684; CALIFORNIA v. TROMBETTA (1984) 467 U.S. 479, 488; HILLIARD v. SPALDING (9th Cir. 1983) 719 F.2d 1443, 1447.

CLAIM FIVE: MC CARTNEY v. COMMISSION ON JUDICIAL QUALIFICATION (1974) 12 Cal. 3d 512, 531-532; SOLBERG v. SUPERIOR COURT (1977) 12 Cal. 2d 182, 190; PEOPLE v. HALL (1978) 86 Cal. App. 3d 753; PEOPLE v. SUPERIOR COURT (HALL) 160 App. 3d 1081; IN RE JOSE S (1978) 78 Cal. App. 619, 627; VOIGT v. SAUVELL (9th Cir. 1995) 90 F.3d 1532, 1565; U.S. v. BAUER (9th Cir. 1996) 1549, 1560; U.S. v. BOSCH (9th Cir. 1991) 951 F.2d 1546, 1548-49.

CLAIM SIX: STECKLAND v. WASHINGTON (1984) 466 U.S. 668;
U.S. v. CRONK (1984) 466 U.S. 648; KIMMELMAN v. MORRISON (1986) 477 U.S. 365, 385; MURPHY v. CARRIER (1986) 477 U.S. 478, 496; BLACKBURN v. ALABAMA (1960) 361 U.S. 199, 205; CHAPMAN v. CALIFORNIA (1967) 386 U.S. 18, 23-24;
U.S. v. SALVENDY (1980) 448 U.S. 83, 86-87; RAKAS v. ILLINOIS (1978) 439 U.S. 128, 134; RANLINGS v. KENTUCKY (1980) 448 U.S. 98, 104-05;
U.S. v. MARION (1971) 404 U.S. 307, 322, 324, 325-26; U.S. LOHMEYER (1977) 431 U.S. 783, 789-90; U.S. v. GOUVEIA (1984) 467 U.S. 180, 192;

PETITION FOR WRIT OF HABEAS CORPUS - 7(c) -

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR
JORGE NAVARRETE
SUPERVISING DEPUTY CLERK
SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK
LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

January 25, 2008

Eugene D. Rutledge F-79385
High Desert State Prison
Facility B (Building B1, Cell 115)
P. O. Box 3030
Susanville, CA 96127-3030

Re: S158052 – Rutledge (Eugene D.) on Habeas Corpus

Dear Sir:

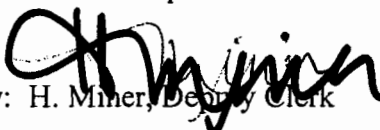
We acknowledge receipt of your letter dated 1-20-2008. Please be advised that your petition for writ of habeas corpus received and filed 11-8-2007 is still pending. A copy of your petition is enclosed.

The California Rules of Court do not set a time limit within which the Supreme Court must act on habeas corpus petitions. The length of time the court requires to rule on such a petition depends on the complexity of the issues raised in the petition, and on the constraints imposed by the court's workload.

While we do not know in advance when the court will decide your case, a copy of the court's decision will be mailed to you the same day it is filed. Counsel is not appointed in these cases unless the court files an order to show cause. If such an order is filed, counsel would be appointed to represent you in any proceeding that may be scheduled.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court


By: H. Miner, Deputy Clerk

HM/hm
Enclosures

Re-sent 1-29-08

~~SAN FRANCISCO 94102
EARL WARREN BUILDING
300 McALLISTER STREET
(415) 865-7000~~

☐ LOS ANGELES 90013
RONALD REAGAN BUILDING
300 SOUTH SPRING STREET
(213) 630-7570

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

November 15, 2007

Eugene Darrel Rutledge # F-79385
San Quentin State Prison
San Quentin, CA 947974

Re: **S152658 - Letter dated November 5, 2007**

Dear Mr. Rutledge:

In reply to your letter of November 5, 2007, received November 8, 2007, you are advised that your petition for writ of habeas corpus, was denied September 21, 2007. I have attached a copy of the order for your review.

Please be advised that we have added your successive papers of May 23, 2007 to case number S158052 which is currently pending at this time. The California Rules of Court do not set a time limit within which the Supreme Court must act on habeas corpus petitions. The length of time the court requires to rule on such a petition depends on the complexity of the issues raised in the petition, and on the constraints imposed by the court's workload.

While we do not know in advance when the court will decide your case, a copy of the court's decision will be mailed to you the same day it is filed. Counsel is not appointed in these cases unless the court files an order to show cause. If such an order is filed, counsel would be appointed to represent you in any proceeding that may be scheduled.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

By: Robert R. Toy, Deputy Clerk

A large, stylized handwritten signature in black ink, which appears to be "R. Toy", is written over the typed name of the Deputy Clerk.

☐ SAN FRANCISCO 94102
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350 McALLISTER STREET
(415) 865-7000

☐ LOS ANGELES 90013
RONALD REAGAN BUILDING
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(213) 830-7570

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
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(213) 830-7570

February 8, 2008

Mr. Eugene Darrel Rutledge
F-79385
P. O. Box 3030
Susanville, CA 96127-3030

Re: S158052 – In re Eugene Darrel Rutledge on Habeas Corpus

Dear Mr. Rutledge:

This is in response to your letter of February 3, 2008, received on February 7, 2008. After checking our records, it shows that we never received your supplement dated November 25, 2007. Please resubmit the supplement as soon as possible. Thank you.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court


By: C. Thompson, Deputy Clerk

Enclosures

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
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February 20, 2008

Eugene Darrel Rutledge, F-79385
P.O. Box 3030
Susanville, CA 96127-3030

Re: S158052/S160704 – In re Eugene Darrel Rutledge on Habeas Corpus

Dear Mr. Rutledge:

The court is in receipt of your letter dated February 13, 2008 in regard to the two above-referenced petitions. Enclosed are copies of both petitions. It is unclear from your letter whether you wish for these petitions to remain as two separate petitions or whether your intention was to submit the documents filed as new case S160704 as a supplement to the existing S158052. Please let this court know in writing by March 12, 2008 whether you wish to combine both filings under the case number S158052 or whether you wish to keep them as two separate petitions. If we do not hear from you by March 12, the cases will be kept as two separate petitions.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

A handwritten signature in cursive script that reads "Bridget A. Newman".

By: Bridget A. Newman
Paralegal

enclosure

rutledge.doc

S158052

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re EUGENE DARREL RUTLEDGE on Habeas Corpus

The petition for writ of habeas corpus is denied. (See *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474.)

SUPREME COURT
FILED

MAR 26 2008

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice

S160704

Docket Listing

Page 1 of 1

Case Number: S160704
Current Status: closed
Case Title: RUTLEDGE (EUGENE D.) ON H.C.
Start Date: 02/07/2008
Case Category: Original Proceeding - Habeas

Court of Appeals Case Information

Lower Court Case Information

Party Information	Attorneys
EUGENE DARREL RUTLEDGE Petitioner P. O. Box 3030 Susanville, CA 96127-3030	[None]

Docket Events

Date	Event
02/07/2008	Petition for writ of habeas corpus filed Eugene Darrel Rutledge, Petitioner in Pro Per
02/19/2008	Received: Letter from petitioner, dated 2-13-08, re case S158052
02/20/2008	Letter sent to: petitioner, requesting clarification of his request by March 12.
02/29/2008	Received: Letter from petitioner dated February 26, 2008 (copy mailed)
03/04/2008	Petition stricken (case closed) The filing of the above-entitled petition for writ of habeas corpus on February 7, 2008, is ordered stricken and it is now ordered filed as a supplement to the petition for writ of habeas corpus in (S158052) In re Eugene Darrell Rutledge on Habeas Corpus.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EUGENE DARREL RUTLEDGE

PLAINTIFF or PETITIONER

v.

A. FELKER, WARDEN OF HIGH DESERT
STATE PRISON

Case Number:

Defendant or Respondent

PROOF OF SERVICE

JERRY BROWN, ATTORNEY GENERAL OF
THE STATE OF CALIFORNIA


I hereby certify that on APRIL 20, 2008, I served a copy
of the attached PETITION FOR WRIT OF HABEAS CORPUS ^{APPLICATION TO} ~~PROCEED~~ ^{IN FORMA} ~~PAUPERIS~~, by placing a copy in
a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope
in the United States Mail at SUBANVILLE, CALIFORNIA:

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
450 GOLDEN GATE AVENUE, BOX 36060
SAN FRANCISCO, CA. 94102

AND

OFFICE OF THE ATTORNEY GENERAL
455 GOLDEN GATE AVE.
SAN FRANCISCO, CA. 94102

I declare under penalty of perjury that the foregoing is true and correct.



EUGENE DARREL RUTENGE

CDC F-79385

HIGH DESERT STATE PRISON

FACILITY B (BUILDING B1, CELL 115)

P.O. BOX 3030

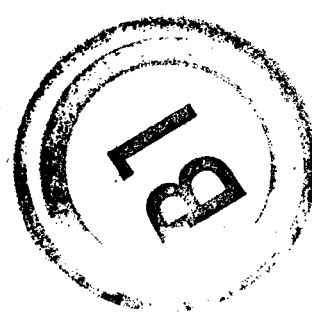
SUSANVILLE, CA. 96127

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APR 25 2008

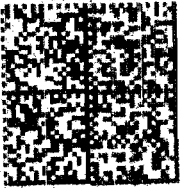
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